

# Office of Ground Water & Drinking Water

## Drinking Water Protection Division

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TO: Mike Lowy

DATE: 12/19/02

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FROM: Ed Moriarty

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PAGES: Cover plus 4

COMMENTS:

Attached are copies  
of the "signed"  
letter from Cynthia and WED's concurrence  
letter.

Ed





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 18 2002

OFFICE OF  
WATER

**MEMORANDUM**

**SUBJECT:** Approval of Puerto Rico's Primacy Revision Application for Consumer Confidence Report Rule, Interim Enhanced Surface Water Treatment Rule, and Stage 1 Disinfectants and Disinfection By-Products Rule

**FROM:** Cynthia C. Dougherty, Director  
Office of Ground Water and Drinking Water, OW (4601)

**TO:** Walter Mugdan, Director  
Division of Environmental Planning and Protection, Region II

Thank you for submitting Puerto Rico's request to revise primary enforcement authority (primacy) for the Consumer Confidence Report Rule (CCR), the Interim Enhanced Surface Water Treatment Rule (IESWTR) and the Stage 1 Disinfectants and Disinfection By-Products Rule (Stage 1 DBPR). This memorandum constitutes concurrence from the Office of Water (OW) and the Office of Enforcement and Compliance Assurance (OECA) on Puerto Rico's primacy revision request. The Office of General Counsel has delegated its review and approval of all packages to the Office of Regional Counsel.

Puerto Rico's primacy revision package was complete and final in August 2002 for CCR, and September 2002, for IESWTR and Stage 1 DBPR. Region II staff reviewed and forwarded the applications with minor comments recommending we concur on its approval. The OECA staff and my staff reviewed the primacy revision applications and agreed that Puerto Rico's requirements are as stringent as federal requirements. Please proceed with the process of primacy revision for Puerto Rico. We ask that you encourage Puerto Rico to make the minor revisions identified by your staff.

The OW and OECA waives concurrence on primacy applications for the remainder of the Region II States for CCR, IESWTR and Stage 1 DBPR. If you have any questions, you may contact me, or have your staff contact Ed Moriarty at (202) 564-3864 for the IESWTR and the Stage 1 DBPR. For questions about the CCR please contact Khanna Johnston at (202) 564-3842.

cc: Connie Musgrove, Acting Director, Office of Regulatory Enforcement  
Susan G. Lepow, Associate General Counsel for Water  
Walter E. Andrews, Branch Chief, Water Programs Branch, Region II

bcc: Ed Moriarty, Drinking Water Protection Division (MC 4606M)  
Khanna Johnston, Water Protection Division (MC 4606M)  
Marged Harris, Water Enforcement Division (MC 2243A)  
Mike Lowy, Water Programs Branch, Region II



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC - 6 2002

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

**MEMORANDUM**

SUBJECT: OECA Approval of Puerto Rico Primacy Application for the Consumer Confidence Rule, Administrative Penalty Authority, and the Definition of a Public Water System under the Safe Drinking Water Act

FROM: Mark Pollins, Director  
Water Enforcement Division

TO: William Diamond, Director  
Drinking Water Protection Division

I congratulate Puerto Rico on being the first state in Region II to submit a request to assume primary enforcement authority ("primacy") for the Consumer Confidence Rule ("CCR rule"), Administrative Penalty Authority, the Definition of a Public Water System, and the Emergency Plan. This memorandum constitutes concurrence from the Office of Enforcement and Compliance Assurance (OECA) on Puerto Rico's primacy requests.

My staff has reviewed this submission and discussed the package with OGWDW. Puerto Rico's authority to enforce the state safe drinking water regulations is based on Puerto Rico Act No. 5 of July 21, 1977, 12 L.P.R.A. §1551, et seq., also known as the "Act to Protect the Purity of Drinking Water of Puerto Rico (the "APPDWPR")." Act No. 5 authorizes the Secretary of the Puerto Rico Department of Health (PRDOH) to protect the purity of Puerto Rico's drinking water and delegates authority to the Secretary, including but not limited to, promulgating regulations that are no less stringent than the federal drinking water regs. and enforcing the same. On February 4, 2000, the PRDOH promulgated the "General Regulation of Environmental Health" ("Regulation No. 6090") to supercede the "Regulation to Protect the Purity of the Drinking Water of Puerto Rico," ("Regulation 50").

Regulation 6090 gives broad discretion to the Secretary of the PRDOH to enact and/or adopt regulations as he deems necessary to protect the Commonwealth's drinking water. Therefore, the Puerto Rican requirements are as stringent as the federal requirements. We concur that Puerto Rico has the statutory authority in place to enforce these rules. My staff has reviewed the State Attorney General's statement regarding state audit provisions and find that Puerto Rico has not enacted any such laws that would interfere with the State's ability to enforce these rules. As Puerto Rico has submitted a package that meets all the federal requirements for primacy of these rules, OECA waives concurrence on primacy applications for the remainder of Region II states for these rules.

If you have any questions, please do not hesitate to have your staff contact Marged Harris at (202)-564-6025.

cc: Khanna Johnston, OGWDW